



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------|-------------|----------------------|---------------------|------------------|
| 09/868,981 | 06/25/2002 | Stuart A. Kauffman | 942757-278580 | 6805 |
| 24239 | 7590 | 10/14/2008 | EXAMINER | |
| MOORE & VAN ALLEN PLLC | | | MAGUIRE, LINDSAY M | |
| P.O. BOX 13706 | | | | |
| Research Triangle Park, NC 27709 | | | ART UNIT | PAPER NUMBER |
| | | | 3692 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 10/14/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Responsive Amendment

The reply filed on September 25, 2008 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Newly submitted claims 68-74 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The originally filed claims were drawn to, "optimizing a portfolio of assets," while the newly filed claims are drawn to, "determining an optimal portfolio of assets." The originally filed claims involve a portfolio already existing and then being optimized, while the newly filed claims involve putting together a portfolio of optimized assets, i.e. the portfolio does not exist prior to the optimization. Therefore the claims as newly filed are drawn to a different invention than the originally filed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 68-74 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since applicant previously withdrew the other claims in the case, and the withdrawal of claims 68-74 due to original presentation leaves the case with no claims left to prosecute, the response is deemed non-responsive. See 37 CFR 1.111.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. MAGUIRE whose telephone number is (571)272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lindsay M. Maguire
10/10/08
/Lindsay M Maguire/
Examiner, Art Unit 3692

/Kambiz Abdi/
Supervisory Patent Examiner,
Art Unit 3692